

Notice of Rulemaking

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE NO.: RULE TITLE:

40E-7.521: Definitions

40E-7.527: Hunting; Possession and Use of Firearms

40E-7.538: Establishment of South Florida Water Management District Management Areas Open to the Public

40E-7.5381: Special Provisions for Right of Way of the District

40E-7.5382: Special Provisions for Vacant Undesignated District Lands Open to the Public

PURPOSE AND EFFECT: To amend Rules 40E-7.521, 40E-7.527, 40E-7.538, 40E-7.5381, and 40E-7.5382 F.A.C., to comply with a recent amendment to Section 790.33, F.S. (HB 45, 2011), which provides exclusive authority to the Legislature to regulate firearms and ammunition, thereby making the District rules regarding firearms and ammunition null and void as of October 1, 2011.

SUBJECT AREA TO BE ADDRESSED: Prohibition of the possession of ammunition or the discharge of firearms of District Public lands.

RULEMAKING AUTHORITY: 373.019, 373.044, 373.113, 373.171, F.S.

LAW IMPLEMENTED: 373.016, 373.056, 373.069, 373.0693, 373.073, 373.079, 373.083, 373.103, 373.1391, 373.59, 373.1401, 790, 810.09, F.S.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 hours before the workshop/meeting by contacting: South Florida Water Management District Clerk at (800) 432-2045 x 2087 or (561) 682-2087. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Steve Coughlin, Section Administrator, Land Stewardship Section, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680 telephone (800) 432-2045 ext. 2603 or (561) 682-2603 or by email to scoughlin@sfwmd.gov. For procedural questions, please contact Charron Follins, Senior Paralegal, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1 (800) 432-2045, ext 6293 or (561) 682-6293 or by email cfollins@sfwmd.gov.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40E-7.521 Definitions.

When used in this part:

(1) through (9) No change.

~~(10) "Firearm" means a shotgun, rifle, pistol, revolver or muzzleloader designed to expel a projectile by the action of an explosive and any air gun, gas gun, blow gun, crossbow, spear, or any other device mechanically propelling an arrow, spear, or other projectile or any starter gun or blank firing device.~~

(11) through (31) Renumbered as (10) through (30).

Specific Authority 373.019, 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.056, 373.069, 373.0693, 373.073, 373.079, 373.083, 373.103, 373.1391, 373.59 FS. History—New 5-24-94, Amended 11-13-97, 1-1-99, 1-5-03, 7-12-06, Amended_____.

40E-7.527 Hunting; ~~Possession and Use of Firearms or Hunting Devices.~~

(1) Consistent with applicable provisions of local, state and federal law, concerning hunting or the possession and use of firearms or other types of hunting devices, such as the rules of the Florida Fish and Wildlife Conservation Commission and the United States Department of Interior, Fish and Wildlife Service, hunting, ~~unlawful possession, discharge, and use of firearms or other types of hunting devices or, trapping devices~~ and the releasing of free-running hunting dogs are prohibited on District lands unless the land is opened as a public hunting area and these uses are authorized in the specific public hunting area regulations. ~~Nothing contained in Chapter 40E-7, Part V, F.A.C., shall be construed to prohibit the lawful possession of concealed weapons by persons properly licensed by the State of Florida to carry concealed weapons. The prohibition on the possession and discharge of firearms or other types of hunting devices shall not apply on land approved by the District for use as a small arms shooting range.~~

(2) through (3) No change.

(4) No person shall hunt ~~or possess a firearm or other type of hunting device~~ except during regulated hunting seasons established and managed by the Florida Fish and Wildlife Conservation Commission.

(5) through (9) No change.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.1391, 373.1401, 373.59, 790, 810.09 FS. History—New 5-24-94, Amended 1-1-01, 1-5-03, 7-12-06, Amended_____.

40E-7.538 Special Provisions for Management Areas of the District Open to the Public.

(1) through (2) No change.

(3) Gardner-Cobb Marsh Management Unit in Osceola County.

(a) through (c) No change.

~~(d) Possession of a firearm or other types of hunting devices in Ike Hammock is prohibited.~~

(4) Lower Kissimmee River Management Area located in Polk, Osceola, Highlands, Glades, and Okeechobee Counties.

(a) through (c) No change.

~~(d) Safety Zones within the Public Use Area in Okeechobee, Highlands, Osceola, and Polk Counties.~~

~~1. All firearms and other types of hunting devices and firearms shall be unloaded.~~

~~2. A person in possession of a Special Use License to camp within the Safety Zone at the Oak Creek Campsite during a hunting season shall have firearms and other types of hunting devices unloaded and secured in a locked firearm or other type of hunting device case while in camp and while in direct travel to and from the campsite.~~

(5) through (9) No change.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.1391, 373.59 FS. History—New 1-1-01, Amended 1-5-03, 7-12-06, Amended_____.

40E-7.5381 Special Provisions for Right of Way of the District.

The following shall be prohibited on all Right of Way of the District; which include rights-of-way, canals, levees, maintenance berms, and spoil mounds:

(1) Hunting.

~~(2) Discharge of firearms or other types of hunting devices.~~

(3) through (12) Renumbered as (2) through (12).

Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.1391, 373.59 FS. History—New 7-12-06, Amended_____.

40E-7.5382 Special Provisions for Vacant Undesignated District Lands Open to the Public.

The following shall be prohibited on vacant undesignated lands, as that term is defined in subsection 40E-7.521(30), F.A.C.

~~(1) Possession of a firearm or other types of hunting devices.~~

(2) through (6) Renumbered as (1) through (5).

Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.1391, 373.59 FS. History—New 7-12-06, Amended_____.